

MONTANA LEGISLATIVE HISTORY

Chapter 363 19 99

Bill H 150 S _____

Original bill & history ☒ c

H. Committee on Business & Labor

S. Committee on Business & Industry

Hearing Date(s) 1-19 ☒ c

Hearing Date(s) 3-2 ☒ c

1-28 ☒ c

3-8 ☒ c

_____ c

_____ c

_____ c

_____ c

Date Out _____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

1/04 Referred to Judiciary
 1/14 Hearing
 1/21 Tabled in Committee
 3/01 Missed Deadline for General Bill Transmittal

HB 148 Introduced by Golie

LC0843 Drafter: Heffelfinger

Provide a One-time Permanent Ad Hoc Postretirement Benefit Increase for Eligible Benefit Recipients under the Firefighters' Unified Retirement System;...

12/02 Fiscal Note Needed
 12/22 Introduced
 1/04 1st Reading
 1/04 Referred to State Administration
 1/04 Fiscal Note Requested
 1/08 Fiscal Note Received
 1/09 Fiscal Note Signed
 1/11 Fiscal Note Printed
 1/22 Hearing
 2/10 Tabled in Committee
 3/01 Missed Deadline for General Bill Transmittal

HB 149 Introduced by Davies, et al.

LC1048 Drafter: MacMaster

Provide That a State Government Officer or Agency May Not Regulate or Infringe upon the Possession, Use, or Transfer of Firearms by Any Person or Entity Without Express Statutory Authority or Unless Statute Specifically Delegates Authority to Adopt Administrative Rules Regulating Firearms;...

12/22 Introduced
 1/04 1st Reading
 1/04 Referred to Judiciary
 1/14 Hearing
 1/22 Committee Executive Action--Bill Passed as Amended 11 9
 1/23 Committee Report--Bill Passed as Amended
 1/29 2nd Reading Passed as Amended 56 44
 2/01 3rd Reading Passed 57 41

Transmitted to Senate
 2/02 Referred to Judiciary
 3/10 Hearing
 3/16 Tabled in Committee
 Died in Standing Committee

HB 150 Introduced by Menahan

LC0913 Drafter: Heffelfinger

Require a Foreign Corporation or a Foreign Limited Liability Company Contracting with the State, an Agency of the State, or a Political Subdivision of the State to Apply for and Receive a Certificate of Authority to Transact Business Before Entering into the Contract;...

By Request of Secretary of State

12/22 Introduced
 1/04 1st Reading
 1/04 Referred to Business and Labor
 1/04 Fiscal Note Requested
 1/05 Fiscal Note Received

1/06 Fiscal Note Signed
 1/10 Fiscal Note Printed
 1/19 Hearing
 1/28 Committee Executive Action--Bill Passed as Amended 18 0
 1/29 Committee Report--Bill Passed as Amended
 2/01 2nd Reading Passed as Amended 94 6
 2/03 3rd Reading Passed 91 9

Transmitted to Senate
 2/04 Referred to Business and Industry
 3/02 Hearing
 3/08 Committee Executive Action--Bill Concurred as Amended 6 0
 3/08 Committee Report--Bill Concurred as Amended
 3/09 2nd Reading Concurred 50 0
 3/10 3rd Reading Concurred 50 0

Returned to House with Amendments
 4/13 2nd Reading Senate Amendments Concurred 99 0
 4/14 3rd Reading Passed as Amended by Senate 89 10
 4/14 Sent to Enrolling
 4/15 Returned from Enrolling
 4/16 Signed by Speaker
 4/16 Signed by President
 4/16 Transmitted to Governor
 4/20 Signed by Governor
 4/22 Chapter Number Assigned
 Chapter Number 363
 Effective Date: 4/20/1999 - All Sections

HB 151 Introduced by Witt

LC0805 Drafter: B. Campbell

Clarify That in the Case of a Consolidated County Office, a Person May Be an Elector of Any County in Which the Duties of the Office Are to Be Performed to Be Eligible for the Office;...

12/23 Introduced
 1/04 1st Reading
 1/04 Referred to Local Government
 1/19 Hearing
 1/20 Committee Executive Action--Bill Passed 17 0
 1/20 Committee Report--Bill Passed
 1/23 2nd Reading Passed 97 3
 1/25 3rd Reading Passed 99 1

Transmitted to Senate
 1/27 Referred to Local Government
 3/02 Hearing
 3/03 Committee Executive Action--Bill Concurred 10 0
 3/03 Committee Report--Bill Concurred
 3/04 2nd Reading Concurred 50 0
 3/05 3rd Reading Concurred 49 1

Returned to House
 3/05 Sent to Enrolling
 3/08 Returned from Enrolling
 3/09 Signed by Speaker
 3/10 Signed by President
 3/10 Transmitted to Governor

HOUSE BILL NO. 150

INTRODUCED BY MENAHAN R

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A FOREIGN CORPORATION OR A FOREIGN LIMITED LIABILITY COMPANY CONTRACTING WITH THE STATE, AN AGENCY OF THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE TO APPLY FOR AND RECEIVE A CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS BEFORE ENTERING INTO THE CONTRACT; AMENDING SECTIONS 35-1-1026, 35-1-1027, 35-8-1001, AND 35-8-1002, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 35-1-1026, MCA, is amended to read:

"35-1-1026. Authority to transact business required. (1) A foreign corporation may not transact business in this state until it obtains a certificate of authority from the secretary of state.

(2) ~~The~~ Except as provided in subsection (4), the following activities, among others, do not constitute transacting business within the meaning of subsection (1):

(a) maintaining, defending, or settling any proceeding;

(b) holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;

(c) maintaining bank accounts;

(d) maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositories with respect to those securities;

(e) selling through independent contractors;

(f) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(g) creating or acquiring indebtedness, mortgages, and security interests in real or personal property;

(h) securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) owning real or personal property that is acquired incident to activities described in subsection (2)(h) if the property is disposed of within 5 years after the date of acquisition does not produce income, or is not used in the performance of a corporate function;

(j) conducting an isolated transaction that is completed within 30 days and that is not a transaction in the course of repeated transactions of a similar nature; or

(k) transacting business in interstate commerce.

(3) The list of activities in subsection (2) is not exhaustive.

(4) A foreign corporation is transacting business within the meaning of subsection (1) if it enters into a contract, including a contract entered into pursuant to Title 18, with the state of Montana, an agency of the state, or a political subdivision of the state and must apply for and receive a certificate of authority to transact business before entering into the contract."

Section 2. Section 35-1-1027, MCA, is amended to read:

"35-1-1027. Consequences of transacting business without authority. (1) A foreign corporation transacting business in this state without a certificate of authority may not maintain a proceeding in any court in this state until it obtains a certificate of authority.

(2) The successor to a foreign corporation that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding based on that cause of action in any court in this state until the foreign corporation or its successor obtains a certificate of authority.

(3) A court may stay a proceeding commenced by a foreign corporation or its successor or assignee until it determines whether the foreign corporation or its successor or assignee requires a certificate of authority. If it determines that a certificate is required, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

(4) A foreign corporation is liable for a civil penalty of \$5 for each day but not to exceed a total of \$1,000 for each year that it transacts business in this state without a certificate of authority. The attorney general may collect all penalties due under this subsection.

(5) Notwithstanding the provisions of subsections (1) and (2), the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or prevent it from defending any proceeding in this state.

1 (6) A contract between the state of Montana, an agency of the state, or a political subdivision
2 of the state and a foreign corporation that has failed to receive a certificate of authority, as required under
3 35-1-1026, is void."

4
5 Section 3. Section 35-8-1001, MCA, is amended to read:

6 "35-8-1001. Authority to transact business required. (1) A foreign limited liability company may
7 not transact business in this state until it obtains a certificate of authority from the secretary of state.

8 (2) The Except as provided in subsection (4), the following activities, among others, do not
9 constitute transacting business within the meaning of subsection (1):

10 (a) maintaining, defending, or settling any proceeding;

11 (b) holding meetings of the members or managers or carrying on other activities concerning
12 internal affairs of the limited liability company;

13 (c) maintaining bank accounts;

14 (d) maintaining offices or agencies for the transfer, exchange, and registration of the limited
15 liability company's own securities or maintaining trustees or depositaries with respect to those securities;

16 (e) selling through independent contractors;

17 (f) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise,
18 if the orders require acceptance outside this state before they become contracts;

19 (g) creating or acquiring indebtedness, mortgages, and security interests in real or personal
20 property;

21 (h) securing or collecting debts or enforcing mortgages and security interests in property securing
22 the debts;

23 (i) owning real or personal property that is acquired incident to activities described in subsection
24 (2)(h) if the property is disposed of within 5 years after the date of acquisition, does not produce income,
25 or is not used in the performance of a function of the limited liability company;

26 (j) conducting an isolated transaction that is completed within 30 days and that is not a
27 transaction in the course of repeated transactions of a similar nature; or

28 (k) transacting business in interstate commerce.

29 (3) The list of activities in subsection (2) is not exhaustive.

30 (4) A foreign limited liability company is transacting business within the meaning of subsection

1 (1) if it enters into a contract, including a contract entered into pursuant to Title 18, with the state of
2 Montana, an agency of the state, or a political subdivision of the state and must apply for and receive a
3 certificate of authority to transact business before entering into the contract."

4
5 Section 4. Section 35-8-1002, MCA, is amended to read:

6 "35-8-1002. Consequences of transacting business without authority. (1) A foreign limited liability
7 company transacting business in this state without a certificate of authority may not maintain a
8 proceeding in any court in this state until it obtains a certificate of authority.

9 (2) The successor to a foreign limited liability company that transacted business in this state
10 without a certificate of authority and the assignee of a cause of action arising out of that business may
11 not maintain a proceeding based on that cause of action in any court in this state until the foreign limited
12 liability company or its successor obtains a certificate of authority.

13 (3) A court may stay a proceeding commenced by a foreign limited liability company or its
14 successor or assignee until it determines whether the foreign corporation or its successor or assignee
15 requires a certificate of authority. If it determines that a certificate is required, the court may further stay
16 the proceeding until the foreign limited liability company or its successor obtains the certificate.

17 (4) A foreign limited liability company is liable for a civil penalty of \$5 for each day, but not to
18 exceed a total of \$1,000 for each year, that it transacts business in this state without a certificate of
19 authority. The attorney general may collect all penalties due under this subsection and deposit them to
20 the general fund.

21 (5) Notwithstanding the provisions of subsections (1) and (2) and except as provided in subsection
22 (6), the failure of a foreign limited liability company to obtain a certificate of authority does not impair the
23 validity of its acts or prevent it from defending any proceeding in this state.

24 (6) A contract between the state of Montana, an agency of the state, or a political subdivision
25 of the state and a foreign limited liability company that has failed to receive a certificate of authority, as
26 required under 35-8-1001, is void."

27
28 NEW SECTION. Section 5. Severability. If a part of [this act] is invalid, all valid parts that are
29 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
30 applications, the part remains in effect in all valid applications that are severable from the invalid

1 applications.

2
3 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

4 - END -

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Business and Labor -

01:05 PM

-
- HB 122** SPONSOR: Jore, Rick SHORT TITLE: Workers freedom act
REFERRED ON: 01/04/1999 HEARD ON: 01/13/1999
TABLED ON: 01/13/1999
FINAL DISPOSITION 03/01/1999 (H) Missed Deadline for General Bill Transmittal
-
- HB 136** SPONSOR: Williams, Carol SHORT TITLE: Revise laws governing comprehensive health association
BY REQUEST OF: State Auditor
REFERRED ON: 01/04/1999 HEARD ON: 01/19/1999
EXECUTIVE ACTION: 01/22/1999 Bill Passed as Amended -- VOTE: 17 - 1
FINAL DISPOSITION 03/27/1999 Chapter Number Assigned
-
- HB 140** SPONSOR: Pavlovich, Bob SHORT TITLE: Revise lottery laws
BY REQUEST OF: Department Of Commerce
REFERRED ON: 01/04/1999 HEARD ON: 01/12/1999
TABLED ON: 01/12/1999
FINAL DISPOSITION 03/01/1999 (H) Missed Deadline for General Bill Transmittal
-
- HB 150** SPONSOR: Menahan, Red SHORT TITLE: Require contracting foreign companies to receive a certificate of authority
BY REQUEST OF: Secretary Of State
REFERRED ON: 01/04/1999 HEARD ON: 01/19/1999
EXECUTIVE ACTION: 01/28/1999 Bill Passed as Amended -- VOTE: 18 - 0
FINAL DISPOSITION 04/22/1999 Chapter Number Assigned
-
- HB 153** SPONSOR: Hedges, Donald SHORT TITLE: Revise laws governing funeral services
BY REQUEST OF: Board Of Funeral Service
REFERRED ON: 01/04/1999 HEARD ON: 01/12/1999
EXECUTIVE ACTION: 01/28/1999 Bill Passed as Amended -- VOTE: 16 - 2
FINAL DISPOSITION 04/20/1999 Chapter Number Assigned
-
- HB 154** SPONSOR: Gallus, Steven SHORT TITLE: Clarify prohibition against auto repair incentives
BY REQUEST OF: State Auditor
REFERRED ON: 01/04/1999 HEARD ON: 01/20/1999
EXECUTIVE ACTION: 01/21/1999 Bill Passed as Amended -- VOTE: 18 - 0
FINAL DISPOSITION 03/27/1999 Chapter Number Assigned
-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on January 19, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 167, HB 150, HB 155, HB 136
POSTED 1/7/1999 AND HB 250
POSTED 1/14/1999
Executive Action: HB 167, 200, 229, 250, 43, 227

HEARING ON REP. COBB'S CORRECTION

Informational Testimony: Rep. Simon reported that Rep. Cobb intended to change the effective date on the house floor today.
{Tape : 1; Side : A; Approx. Time Counter : 0 - 14}

HEARING ON HB 250

Sponsor: Rep. Rehbein, HD 100, introduced HB 250. EXHIBIT(1)
{Tape : 1; Side : A; Approx. Time Counter : 14 - 40}

Proponents: Evan Barrett, Montana Economic Development Assn.
{Tape : 1; Side : A; Approx. Time Counter : 102 - 146}

Opponents: None

Questions from Committee Members and Responses:

Reps. Krenzler and Bookout question Rep. Rehbein
Rep. Sliter questions Barrett.

{Tape : 1; Side : A; Approx. Time Counter : (102 - 146)}

Reps. Bitney and Tuss question E. Barrett

{Tape : 1; Side : A; Approx. Time Counter : 146 - 204}

Rep. Simon questions Rehbein.

{Tape : 1; Side : A; Approx. Time Counter : 204 - 232}

Closing by Sponsor: Rep. Rehbein closed HB 250.

{Tape : 1; Side : A; Approx. Time Counter : 232 - 248}

HEARING ON HB 150

Sponsor: Rep. Menahan, HD 57 introduced HB 150.

{Tape : 1; Side : A; Approx. Time Counter : 248 - 280}

Proponents: Secretary of State, Mike Cooney.

{Tape : 1; Side : A; Approx. Time Counter : 280 - 340}

Opponents: None

Questions from Committee Members and Responses:

Reps. Stovall, Krenzler, Simon and Ewer questions Secretary Cooney.

{Tape : 1; Side : A; Approx. Time Counter : 340 - 500}

Rep. Bookout questions Rep. Ewer

{Tape : 1; Side : B; Approx. Time Counter : 0 - 49}

Rep. Simon questions Secretary Cooney.

{Tape : 1; Side : B; Approx. Time Counter : 49 - 78}

Closing by Sponsor: Rep. Menahan closed on HB 150.

{Tape : 1; Side : B; Approx. Time Counter : 78 - 87}

HEARING ON HB 136

Sponsor: Rep. Williams, HD 69 introduced HB 136. EXHIBIT(2)
EXHIBIT(3) EXHIBIT(4)

{Tape : 1; Side : B; Approx. Time Counter : 87 - 182}

Proponents: Bill Jensen. Lawyer with Blue Cross-Blue Shield and a board member and Chairman of the Montana Comprehensive Health Assn.

{Tape : 1; Side : B; Approx. Time Counter : 182 - 238}

Claudia Clifford, Montana Dept. of Insurance, State Auditors office.

{Tape : 1; Side : B; Approx. Time Counter : 238 - 279}

Don Allen, Montana Medical Benefits Plan.

{Tape : 1; Side : B; Approx. Time Counter : 279 - 285}

Opponents: None

Questions from Committee Members and Responses:

Reps. Lawson, Krenzler and Bookout question Jensen.

{Tape : 1; Side : B; Approx. Time Counter : 285 - 392}

Rep. Simon questions C. Clifford.

{Tape : 1; Side : B; Approx. Time Counter : 392 - 459}

Closing by Sponsor: Rep. Williams closed on HB 136

{Tape : 1; Side : B; Approx. Time Counter : 459 - 500}

EXECUTIVE ACTION ON HB 250

Motion: Rep. Krenzler moved that HB 250 DO PASS.

{Tape : 2; Side : A; Approx. Time Counter : 0 - 6}

Motion/Vote: Rep. Pavlovich moved that HB 250 BE AMENDED.

Motion carried 18-0.

{Tape : 2; Side : A; Approx. Time Counter : 6 - 14}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By CHAIRMAN BRUCE SIMON, on January 28, 1999 at
8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 281, HB 282, HB 367, HB
368, HB 369, HB 370, 1/25/1999
Executive Action: HB 294, HB 320, HB 312, HB
150, HB 247, HB 153, HB 181,
HB 328, HB 281, HB 282

Motion/Vote: REP. SLITER moved that HB 312 BE TABLED. Motion carried 12-6 with Ewer, Juneau, Matthews, Pavlovich, Squires, and Tuss voting no.

{Tape : 3; Side : A; Approx. Time Counter : 139 - 160}

EXECUTIVE ACTION ON HB 150

Motion: REP. PAVLOVICH moved that HB 150 DO PASS.

{Tape : 3; Side : A; Approx. Time Counter : 160 - 170}

Motion/Vote: REP. PAVLOVICH moved that HB 150 BE AMENDED. Motion carried unanimously. EXHIBIT(19)

{Tape : 3; Side : A; Approx. Time Counter : 170 - 180}

Motion/Vote: REP. PAVLOVICH moved that HB 150 DO PASS AS AMENDED. Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 180 - 225}

EXECUTIVE ACTION ON HB 247

Motion/Vote: REP. PAVLOVICH moved that HB 247 DO PASS. Motion carried 12-6 with Barnett, Bitney, Lawson, Masolo, Sliter, and Trexler voting no.

{Tape : 3; Side : A; Approx. Time Counter : 225 - 490}

EXECUTIVE ACTION ON HB 153

Motion: REP. LAWSON moved that HB 153 DO PASS. EXHIBIT(20)

{Tape : 3; Side : A; Approx. Time Counter : 490 - 500}

Motion/Vote: REP. TREXLER moved that HB 153 BE AMENDED. Motion carried unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 0 - 100}

Motion/Vote: REP. TREXLER moved that HB 153 BE AMENDED. Motion carried unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 100 - 120}

Motion/Vote: REP. LAWSON moved that HB 153 DO PASS AS AMENDED. Motion carried 16-2 with Brown and Juneau voting no.

{Tape : 3; Side : B; Approx. Time Counter : 120 - 178}

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Business and Industry -

04:37 PM

HB 121 SPONSOR: Krenzler, Billie SHORT TITLE: Pyramid scheme prohibition and establishing criminal penalties

BY REQUEST OF: State Auditor

REFERRED ON: 02/01/1999 HEARD ON: 03/04/1999

EXECUTIVE ACTION: 03/08/1999 Bill Concurred -- VOTE: 6 - 0

FINAL DISPOSITION 03/17/1999 Chapter Number Assigned

HB 150 SPONSOR: Menahan, Red SHORT TITLE: Require contracting foreign companies to receive a certificate of authority

BY REQUEST OF: Secretary Of State

REFERRED ON: 02/04/1999 HEARD ON: 03/02/1999

EXECUTIVE ACTION: 03/08/1999 Bill Concurred as Amended -- VOTE: 6 - 0

FINAL DISPOSITION 04/22/1999 Chapter Number Assigned

HB 153 SPONSOR: Hedges, Donald SHORT TITLE: Revise laws governing funeral services

BY REQUEST OF: Board Of Funeral Service

REFERRED ON: 02/03/1999 HEARD ON: 03/04/1999 (S) Discussed in Committee ON: 03/10/1999

(S) Discussed in Committee ON: 03/17/1999

EXECUTIVE ACTION: 03/23/1999 Bill Concurred as Amended -- VOTE: 7 - 0

TABLED ON: 03/08/1999

FINAL DISPOSITION 04/20/1999 Chapter Number Assigned

HB 154 SPONSOR: Gallus, Steven SHORT TITLE: Clarify prohibition against auto repair incentives

BY REQUEST OF: State Auditor

REFERRED ON: 01/27/1999 HEARD ON: 03/04/1999

EXECUTIVE ACTION: 03/09/1999 Bill Concurred -- VOTE: 6 - 0

FINAL DISPOSITION 03/27/1999 Chapter Number Assigned

HB 155 SPONSOR: Pavlovich, Bob SHORT TITLE: Prohibit the cancellation or nonrenewal of property & casualty insurance

BY REQUEST OF: State Auditor

REFERRED ON: 01/29/1999 HEARD ON: 03/05/1999

EXECUTIVE ACTION: 03/08/1999 Bill Concurred as Amended -- VOTE: 6 - 0

FINAL DISPOSITION 04/22/1999 Chapter Number Assigned

HB 167 SPONSOR: Johnson, Royal SHORT TITLE: Revise statutes affected by termination of Old Fund Liability Tax Jan 1,1999

REFERRED ON: 01/27/1999

FINAL DISPOSITION 03/30/1999 Chapter Number Assigned

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY**

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 2, 1999 at 9:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 73, 2/27/1999
HB 150, 2/27/1999
HB 32, 2/27/1999
Executive Action: HB 73

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON HB 73

Sponsor: REP. JOHN "SAM" ROSE, HD 87, CHOTEAU

HEARING ON HB 150

Sponsor: REP. WILLIAM "RED" MENAHAN, HD 57, ANACONDA

Proponents: Mike Cooney, Secretary of State
Mike Foster, MT Contractors Assoc.
Chris Gallus, MT Chamber of Commerce

Opponents: None

Informational Testimony: Russell Cater, Department of Public
Health & Human Services

Opening Statement by Sponsor:

REP. WILLIAM "RED" MENAHAN. This bill covers a situation when an outside-Montana contractor does work in Montana through a contract with the state, but isn't registered here in Montana.

Proponents' Testimony:

Mike Cooney, Secretary of State. In many respects, this bill is a housekeeping measure. Montana has entered into major contracts with out-of-state corporations; however, these corporations never filed to do business in Montana. Our office doesn't have an ability to check on these things. What will happen is the media, general public or legislators will call our office and ask for information on those particular corporations. At that time we will know we have no information on them. It makes sense for Montana to require the out-of-state corporation to file to do business in Montana because then we at least have background information. This process is not burdensome, but is fairly easy; in fact, it can be done within hours. This bill simply says that before entering into a contract with the state of Montana, the corporation must first register with the Secretary of State.

{Tape : 1; Side : A; Approx. Time Counter : 30}

Mike Foster, Montana Contractors' Association. The issue of foreign companies coming into Montana to do business has become a matter of concern to the Montana Contractors' Association. We believe HB 150 is an important step toward our goal of having a fair system for competition, i.e. if Montana companies need to go

through this process, a foreign company should also. We'd appreciate your support of the bill.

Chris Gallus, Montana Chamber of Commerce. We're here to support this bill because we believe people coming into Montana should obey its laws. We support the 30 days concept remaining because it's reasonable and important on a local level because local governments might not be aware of this provision. We also think it's reasonable to expect people who do business in Montana to register and abide by the state laws. We urge DO PASS on **HB 150**.

Opponents' Testimony: None.

Informational Testimony:

Russell Cater, Department of Health and Human Services (DPHHS). The Department supports the concepts and intent of the bill; however, I would like to propose a few minor amendments **EXHIBIT(bus47a02)**. Page 1, Subsection 2, references exceptions to the general rule of businesses registering with the state, i.e., a business carries on occasional activity here in Montana. Amendments #1,2,4 & 5 clarifies that these exceptions still apply to contracts into which Montana enters. Amendments #3 & 6 indicate this subsection about registration does not apply to goods or services prepared out-of-state for delivery and use in Montana. An example of this would be purchasing a book from a vendor outside Montana, a trainer or consultant coming in, etc. The form takes only a few minutes to complete but it requires an out-of-state business to have a registered agent with the state, which basically means paying a someone or a company in Montana \$150-\$300.

{Tape : 1; Side : A; Approx. Time Counter : 41.8}

Questions from Committee Members and Responses:

SEN. BEA MCCARTHY asked for comment on the amendments. **Mike Cooney** said he didn't think there was anything in the amendments which would harm the intent of the bill.

SEN. MCCARTHY referred to Page 4, Lines 11-12, and asked if a FAX was sufficient written notice. **Mr. Cooney** said it was as good as an original copy and that language didn't need to be amended into

the law. He expressed concern about the Secretary of State's office notifying the contracting parties because sometimes the Secretary's office didn't know the contracting parties were there so it would be difficult to notify them.

SEN. MCCARTHY asked when the 30-day count would begin. **Mike Cooney** said it would be the date from when they sent the notice.

SEN. VICKI COCCHIARELLA asked about the retroactive applicability.

{Tape : 1; Side : B; Approx. Time Counter : 0}

Chris Gallus said he understood there were existing contracts they wanted to address with these notice provisions.

SEN. COCCHIARELLA suggested it would be more fair if a bidder had to be registered in order to compete in the bidding process.

Mike Foster said that was an interesting view; perhaps there could be some statutes that might have a bearing on that. **Bart Campbell** said a certificate was needed to transact business and if a company didn't get the bid, no business would be transacted. He didn't think present laws could require authorization before a more significant contact with the state. **Mike Cooney** said it wasn't uncommon for corporations which wanted to bid and do business with the state to come in and file. He agreed with **Bart Campbell** that was a safe, though unnecessary, approach because conducting business would mean there would be some sort of agreement to exchange goods and services.

SEN. COCCHIARELLA asked if a Montana corporation or company would be able to go through the bidding process without being registered. **Mike Cooney** said if the company was establishing itself just to bid on a project, it would not have to be registered; however, if the bid was accepted, there would be time for them to register. **Mike Foster** said it was important to remember that the companies which entered into large construction contracts with the state (Department of Administration and Department of Transportation) were required to have bonding. If that company isn't registered with the Secretary of State to do business, it would be difficult to get that bond.

SEN. MIKE SPRAGUE asked about the necessity of retroactivity.

Mike Cooney said he guessed there might be some good reason to go back to the beginning of the year because if there was any activity at that point, they could be brought into compliance.

SEN. SPRAGUE asked for verification there was no intent to penalize anyone who may not have known and Mr. Cooney affirmed.

SEN. SPRAGUE asked about contracting agencies picking up suppliers through the Internet and wondered if those Internet providers would have to be registered or licensed. Mike Cooney said he thought that would fall under the exception clause because they wouldn't actually be coming into the state to do business.

SEN. JOHN HERTEL asked why the amendments weren't done sooner. Russ Cater said he didn't pick up on this bill until the day of the hearing so he didn't have time to go through the process of presenting information at the formal hearing.

Closing by Sponsor:

REP. MENAHAN closed. Perhaps Bart Campbell can work this out if the amendments are necessary; perhaps they're not. SEN. BEA MCCARTHY will carry the bill.

{Tape : 1; Side : B; Approx. Time Counter : 9.6}

HEARING ON HB 32

Sponsor: REP. ROYAL JOHNSON, HD 10, BILLINGS

Proponents: REP. ERNEST BERGSAGEL, HD 95, MALTA
Carroll South, Director, Board of Investments

Opponents: None

Opening Statement by Sponsor:

REP. ROYAL JOHNSON, HD 10, BILLINGS. Over the past few years we've had the Science and Technology Alliance going and now we've asked the Board of Investments to take over a part of that

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY**

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 8, 1999 at
10:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:

Executive Action: HB 63; HB 121; HB 150; HB 154;
HB 155; HB 171; HB 153

{Tape : 1; Side : A; Approx. Time Counter : 0}

EXECUTIVE ACTION ON HB 63

Motion: SEN. COCCHIARELLA moved that HB 63 BE CONCURRED IN.

SEN. ROUSH asked about the Advisory Committee from another bill. That was a good bill. He felt that the Advisory Committee should have more power and wondered if they would have any bearing on this bill in relationship to updating codes.

Mr. Kembel said that would help. He had worked with REP. BRUCE SIMON on that particular piece of legislation. There were some who wanted to see the Advisory Committee become similar to a licensing board authority, and that the Department of Commerce would have to take their recommendations to them. That would require a complete rewriting of HB 245. It does give the Advisory Committee more stature.

Vote: Motion carried 4-2 with SEN. BERRY AND SEN. ROUSH voting no.

Motion/Vote: SEN. COCCHIARELLA moved that HB 63 BE CONCURRED IN AS AMENDED. Motion carried 4-2 with SEN. BERRY and SEN. ROUSH voting no.

SEN. VICKI COCCHIARELLA will carry the bill on the Senate Floor.

{Tape : 1; Side : A; Approx. Time Counter : 31.6}

EXECUTIVE ACTION ON HB 121

Motion/Vote: SEN. MCCARTHY moved that HB 121 BE CONCURRED IN. Motion carried unanimously. 6-0

SEN. BEA MCCARTHY will carry the bill on the Senate Floor.

EXECUTIVE ACTION ON HB 150

Motion: SEN. MCCARTHY moved that HB 150 BE CONCURRED IN.

Discussion: Motion/Vote: SEN. MCCARTHY moved that HB 150 BE AMENDED EXHIBIT(bus52a02). Motion carried unanimously. 6-0

Motion/Vote: SEN. MCCARTHY moved that HB 150 BE CONCURRED IN AS AMENDED. Motion carried unanimously. 6-0

SEN. BEA MCCARTHY will carry the bill on the Senate Floor.

{Tape : 1; Side : A; Approx. Time Counter : 35.8}

EXECUTIVE ACTION ON HB 153

Motion/Vote: SEN. COCCHIARELLA moved that HB 153 BE TABLED.

Motion carried unanimously. 6-0

{Tape : 1; Side : A; Approx. Time Counter : 42.2}

EXECUTIVE ACTION ON HB 154

Motion: SEN. BERRY moved that HB 154 BE CONCURRED IN.

Discussion: Mr. Campbell said that he had a note from REP. GALLUS, sponsor, asking to have an immediate effective date put on the bill.

Motion: SEN. MCCARTHY moved that HB 154 BE AMENDED with an immediate effective date.

Discussion: SEN. SPRAGUE said that some people may have money invested in advertisement or whatever for a promotion and he didn't want to unintentionally hurt someone. Mr. Campbell said that bills usually have an October 1 effective date unless there is a compelling reason to have another date. Most laws then take effect when people have them in their hands.

Vote: Motion that HB 154 BE AMENDED with an immediate effective date failed 1-5 with SENATORS COCCHIARELLA, HERTEL, MCCARTHY, ROUSH, and SPRAGUE voting no.

Vote: Motion that HB 154 BE CONCURRED IN carried unanimously.
6-0

SEN. DALE BERRY will carry the bill on the Senate Floor.